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1/19/01
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES SAMPLE,

Petitioner

v.

JOSEPH W. CHESNEY, ET AL.,

Respondents

: CIVIL ACTION NO. 1:CV-01-0038

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(Judge Rambo)

FILED
HARRISBURG, PA

JAN 19 2001

MARY E. D'ANDREA, CLERK
Per [Signature]
Deputy Clerk

MEMORANDUM AND ORDER

Background

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by James Sample, an inmate presently confined at the State Correctional Institution, Frackville, Pennsylvania (SCI-Frackville). The required filing fee has been paid. Named as Respondents are SCI-Frackville Superintendent Joseph W. Chesney, Philadelphia County District Attorney Lynn Abraham and the Pennsylvania State Attorney General.

For the reasons outlined herein, the petition will be transferred to the United States District Court for the Eastern District of Pennsylvania.


28 U.S.C. § 2241(d) provides:

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

Sample is attacking a conviction obtained against him in the Court of Common Pleas for Philadelphia County, Pennsylvania. Petitioner alleges that he was denied a fair trial because of prosecutorial misconduct, and the introduction of perjured and hearsay testimony. He also contends that his prosecution constitutes a violation of the Double Jeopardy Clause of the Fifth Amendment. Since the trial court, as well as any records, witnesses and counsel, are located within the United States District Court for the Eastern District of Pennsylvania, it would be prudent to transfer this action to the Eastern District.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. The Clerk of Court shall transfer the captioned action to the United States District Court for the Eastern District of Pennsylvania.
2. The Clerk of Court shall close the file.


SYLVIA H. RAMBO
United States District Judge

Dated: January 19, 2001.

SR:jvw

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

January 19, 2001

Re: 1:01-cv-00038 Sample v. Chesney

True and correct copies of the attached were mailed by the clerk
to the following:

James Sample
SCI-F
BW-0665
SCI at Frackville
1111 Altamont Blvd.
Frackville, PA 17931-2699

cc:	
Judge	(X)
Magistrate Judge	()
U.S. Marshal	()
Probation	()
U.S. Attorney	()
Atty. for Deft.	()
Defendant	()
Warden	()
Bureau of Prisons	()
Ct Reporter	()
Ctroom Deputy	()
Orig-Security	()
Federal Public Defender	()
Summons Issued	() with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()
Order to Show Cause	() with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()
PRSLC	(X)
East. Dist. of PA	(X)

MARY E. D'ANDREA, Clerk

DATE: January 19th, 2001

BY: 
Deputy Clerk